



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,601	10/03/2003	Franz-Josef Stark	CEDE 2118.1	6149
321	7590	09/04/2007	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			BAREFORD, KATHERINE A	
			ART UNIT	PAPER NUMBER
			1762	
			NOTIFICATION DATE	DELIVERY MODE
			09/04/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/678,601	Applicant(s) STARK ET AL.	
	Examiner Katherine A. Bareford	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 48,49,52,53,59,61 and 66.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

Continuation of 3. NOTE: the proposed amendments to claims 52 and 53 change the scope of these claims and thus would require further consideration and/or search by the Examiner.

Continuation of 5. Applicant's reply has overcome the following rejection(s): the objection to the Dec. 30, 2003 amendment to the specification (Paragraph 2 of the June 22, 2007 Final Rejection) only is withdrawn due to applicant's clarification of the amendments..

Continuation of 11. does NOT place the application in condition for allowance because: (A) as to the objection to the specification, paragraph 2 of the June 22, 2007 Final Rejection, this is withdrawn as discussed in Box 5 above. (B) as to the 35 USC 112 rejection of the claims, this is maintained as the proposed amendment has not been entered for the reasons discussed in Box 3 above. (C) As to the 35 USC 103 rejection of the claims, applicant has argued that '134 does not disclose the claimed complexing agents and Martyak and Zhong, while disclosing the use of lactic acid do not indicate its equivalency to glutamic acid of '134 or disclose any physical or chemical properties of these complexing agents, nor do they attribute any particular advantage to using any particular complexing agents. Applicant also argues that the references teach away from their combination and also do not teach the equivalence of glutamic acid and lactic acid. The Examiner disagrees. As to the teaching away, while '134 makes reference to problems with "many chelating agents, such as organic hydroxy acids" in general unduly retarding the deposition rate of nickel and specifically names three acids, "tartaric acid, malic acid and gluconic acid" as causing problems. However, it is the Examiner's position that the prior art as a whole does not teach away from the provided combination. '134 refers to chelating agents that unduly retard the deposition rate of nickel as being a problem (page 1, lines 60-70). While '134 specifically refers to three specific organic acids as causing this problem, and refers to organic hydroxy acids in general, it is clear that the referred to problem is with chelating agents that ~~cause~~ unduly retard the deposition rate of nickel. The other prior art of record to Martyak specifically shows that one of ordinary skill in the art would understand that this is not a problem with lactic acid, as Martyak not only teaches to use lactic acid, but also provides examples, see example 1, indicating that nickel electroless plating baths with lactic acid can provide desirable plating in a short amount of time (20 minutes). Therefore, one of ordinary skill in the art, looking at the prior art as a whole would not be taught away from using lactic acid. As to the combination of the references, while '134 discloses advantages for using glutamic acid, Martynak specifically discloses desirable use of monovalent acid such as lactic acid or glutamic acid. and as to lactic acid specifically notes that lactic acid can serve the dual purpose of chelant and counterion when nickel lactate use to prepare or replenish the solution (column 2, lines 35-40). Similarly as to the equivalence of the materials Martyak provides that lactic acid and glutamic acid are "monovalent acids" that provide desirable chelating, and thus they are considered "equivalent" monovalent acids for chelating purposes, with the art teaching that they are two compositions each of which is taught by the art to be useful for the same purpose, as discussed in MPEP 2144.06. The Examiner also notes that the art to Martyak and Zhong also teach the well known use of the various components of the bath as claimed and '134 shows that the deposition rate and throughput are known result effective variables that would be optimized when using an electroless plating bath.


KATHERINE BAREFORD
PRIMARY EXAMINER